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April 29, 1986

NOTE FOR: Bernie, Michael, Steve, Bob S. and Duane
FROM: David
SUBJECT: Intelligence Retirement Legislation

Attached are some changes I believe we should recommend to the Senate
Legislative Counsel's initial draft. Please review these and give me any
additions or changes you may have, so that we can put together a comprehensive
package of our comments.

DRAFT April 29, 1986

HPSCI Staff Comments on "Initial Discussion Draft April 25, 1986"

[Intelligence Retirement Issues]

Suggested changes to the initial discussion draft and the explanation for the changes is set forth below. A copy of the initial discussion draft marked to reflect the suggested changes is attached.

No. 1

Change: Page 1, line 1, add to Title IV caption: "AND RELATED MATTERS".

Reason: Although most of Title IV deals with CIA retirement, two provisions deal with NSA and DIA special employee retirement.

No. 2

Change: Page 1, Line 13, strike "Fund" and insert "fund".

Reason: Technical. Conforms to drafting custom of Title II, CIA Retirement Act.

No. 3

Change: Page 1, line 21, before the semicolon insert "and by striking 'Seven' in the first sentence of subsection (a) and inserting 'seven' in lieu thereof".

Reason: Technical. Since "seven" will no longer be the first word in the sentence, it should no longer be capitalized.

No. 4

Change: Page 3, line 12, strike "such".

Reason: Technical. Use of "the such" would appear to have been a typographical error.

No. 5

Changes: Page 5, line 13, in the caption for Section 302, insert "CRITERIA" after "SECTION 203" and on Page 5, line 18, insert "the criteria set forth in" after "under".

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Reason: Eliminates potential confusion. Section 203 of the CIA Retirement Act permits the DCI to designate as CIARDS participants Agency personnel whose duties are "(i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment. . . ." The HPSCI/SSCI drafting guidance stated the Section 203 criteria should be used in defining the new special category of CIA employees to be accorded law enforcement/firefighter preferential retirement treatment. The initial discussion draft uses the term "Section 203 employee" as a shorthand reference to the new special category CIA employees. This is confusing, because a Section 203 employee, literally speaking, is a CIARDS participant. A better practice would be to refer to the new special category of CIA as "Section 203 criteria employees," which indicates only that the criteria of Section 203 apply to them, not that they are employees to which Section 203 itself refers.

No. 6

Change: Page 6, lines 6 - 8, change "(3) Upon reverting to a retired status, the annuity of an officer or employee recalled under this subsection" to read "(3) When an officer or employee recalled under this subsection reverts to a retired status, the annuity of such officer or employee".

Reason: Grammatical. The annuity does not revert to a retired status.

No. 7

Change: Page 6, line 19, after "service abroad" insert "after the date of enactment of the Federal Employee Retirement System Act of 1986".

Reason: As the HPSCI/SSCI drafting guidance states, the accrual rate increase for years of service abroad as non-CIARDS CIA, special NSA, or DIA attache or liaison office service is prospective only.

No. 8

Change: Page 7, line 21, after "subsection (b)" insert "of this section".

Reason: Eliminates confusion and possible misinterpretation. The "subsection (b)" waiver to which the provision refers is the joint employee/former spouse waiver under subsection 304(b), which makes applicable to CIA FRS employees the joint waiver provided by Section 221(b)(1)(C) of the CIA Retirement Act applicable to CIA CIARDS employees.

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No. 9

Change: Page 8, line 24, strike "-- (1) the percentage prescribed in subsections (b)(1)(A), (b)(1)(B), (b)(4)(A), and (c)(2) of such section shall be deemed to be 50 percent;" and renumber succeeding paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4).

Reason: The HPSCI/SSCI drafting guidance provided that the CIA FRS employees' former spouses benefits should be the same as the CIA CSRS employees' former spouses benefits. The current law provides the percentage figure of 55%, not 50%, to be used in calculating former spouses annuities. The provision deeming the applicable percentage to be 50%, rather than the 55%, is contrary to the drafting guidance.

No. 10

Change: Page 11, line 12, strike "The" and insert "Notwithstanding any provision of chapter 84 of title 5, United States Code, the" and on Page 11, line 14, insert ", to the extent considered appropriate by the Director" after "may".

Reason: Conforms the Thrift Executive Director/DCI relationship to the provision on page 10 - 11 concerning the Director, OPM/DCI relationship. In both cases, the DCI determines the extent to which he needs to assume the responsibilities of external entities for administering the FRS as it applies to CIA employees.

No. 11

Change: Page 11, line 19, strike the bracketed material.

Reason: Unnecessary.

No. 12

Change: Page 12, line 13, change subsection (d) to read:

"(d)(1) In the administration of chapter 84 of title 5, United States Code, under this section, section 201(c) of this Act shall apply.

"(2) Notwithstanding paragraph (1), section 8461(e) of title 5, United States Code, shall apply with respect to officers and employees of the Central Intelligence Agency who are neither participants in the Central Intelligence Agency Retirement and Disability System nor section 203 criteria employees designated under section 302(a)(1) of this Act."

-4-

Reason: The HPSCI/SSCI drafting guidance concluded that, for security reasons, all aspects of CIA retirement should be brought inside the CIA and kept there. Paragraph (1) accomplishes that for new CIA FRS employees. The guidance also concluded that there should be an important exception to this principle: CIA CSRS and FRS employees should retain the right to appeal adverse retirement determinations to the MSPB and the federal courts. Paragraph (2) accomplishes that.

No. 13

Change: Page 13, lines 1 through 5, revise the subsection to read "(b) The regulations prescribed under subsection (a) shall be submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before they take effect."

Reason: Provides the same reporting requirement for CIA FRS retirement regulations as applies to CIA CIARDS retirement regulations under Section 201(a) of the CIA Retirement Act, as provided for in the HPSCI/SSCI drafting guidance.

No. 14

Changes: Page 13, line 7, insert "(a) before "The" and after line 13, add the following new subsection: "(b) The regulations prescribed under subsection (a) shall be submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before they take effect."

Reason: Provides the same reporting requirement for transition regulations as applies to CIA CIARDS retirement regulations under Section 201(a) of the CIA Retirement Act, as provided for in the HPSCI/SSCI drafting guidance.

No. 15

Change: Page 14, line 21, strike the text of (B) after "paragraph" up to and including "regulations", insert "shall be submitted" after "paragraph", and insert "before they take effect" after "Representatives".

Reason: Provides the same reporting requirement for CIA CSRS retirement regulations as applies to CIA CIARDS retirement regulations under Section 201(a) of the CIA Retirement Act, as provided for in the HPSCI/SSCI drafting guidance.

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No. 16

Change: Page 14, line 25, after the first period insert the following new paragraph:

"(5) (A) In the administration of this subchapter under this subsection, section 201(c) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees shall apply.

"(B) Notwithstanding subparagraph (A), section 8347(d) of this title shall apply with respect to officers and employees of the Central Intelligence Agency who are participants in the Civil Service Retirement System."

Reason: The HPSCI/SSCI drafting guidance concluded that, for security reasons, all aspects of CIA retirement should be brought inside the CIA and kept there. Paragraph (5) (A) accomplishes that for CIA CSRS employees. The guidance also concluded that there should be an important exception to this principle: CIA CSRS employees should retain the right to appeal adverse retirement determinations to the MSPB and the federal courts. Paragraph (5) (B) accomplishes that.

No. 17

Change: Page 15, strike section 406, and renumber section 407 as section 406.

Reason: Unnecessary. In developing the retirement legislation, the issue of whether to expand to new groups of CIA employees the preferential CIA retirement benefits (or to contract the existing group) has been fully aired, and the Section 203 criteria have been retained as the appropriate definition of the groups which deserve preferential retirement benefits.

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S.I.C.
DRAFT April 29, 1986
HPSCI Suggested Changes

INITIAL DISCUSSION DRAFT
APRIL 25, 1986

TITLE IV--CENTRAL INTELLIGENCE AGENCY RETIREMENT
AND RELATED MATTERS

No. 1

SEC. 4Ø1. REFERENCES.

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1Ø43; 5Ø U.S.C. 4Ø3 note) is amended--

(1) in section 2Ø1(c), by inserting "(except section 3Ø5(d) of this Act)" after "or any other provisions of law";

(2) by striking out "this Act" each place it appears in title II except in sections 2Ø1 and 264, and inserting in lieu thereof "this title"; and

(3) by inserting "under this title" after "payable from the ^{Fund}~~Fund~~" each place it appears in title II.

No. 2

SEC. 4Ø2. CONTRIBUTIONS TO THE CENTRAL INTELLIGENCE AGENCY
RETIREMENT AND DISABILITY SYSTEM.

Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (78 Stat. 1Ø45; 5Ø U.S.C. 4Ø3 note) is amended--

(1) by inserting "Except as provided in subsection (d)," before "Seven percentum" in the first sentence of subsection (a); and ^{and by striking "Seven" in the first sentence of} subsection (a) ^{and inserting "seven" in lieu thereof}

No. 3

(2) by adding at the end thereof the following new subsection (d):

"(d)(1) In the case of a participant who was a

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*Amend
Section 8402
to include
CSARBS*

1 participant subject to this title before January 1, 1984, and
2 whose service--

3 "(A) is employment for the purposes of title II of
4 the Social Security Act and chapter 21 of the Internal
5 Revenue Code of 1954, and

6 "(B) is not creditable service for any purpose under
7 title III of this Act or chapter 84 of title 5, United
8 States Code,

9 there shall be deducted and withheld from the basic pay of
10 the participant under this subsection during any pay period
11 only the amount computed pursuant to paragraph (2).

12 "(2) The amount deducted and withheld from the basic pay
13 of a participant during any pay period pursuant to paragraph
14 (1) shall be the excess of--

15 "(A) the amount determined by multiplying the
16 percent applicable to the participant under subsection
17 (a) by the basic pay payable to the participant for such
18 pay period, over

19 "(B) the amount of the taxes deducted and withheld
20 from such basic pay under section 31Ø1(a) of the Internal
21 Revenue Code of 1954 (relating to old-age, survivors, and
22 disability insurance) for such pay period."

23 SEC. 4Ø3. OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY
24 BENEFITS.

25 Section 221 of the Central Intelligence Agency Retirement

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1 Act of 1964 for Certain Employees (78 Stat. 1045; 50 U.S.C.
 2 403 note) is amended by adding at the end thereof the
 3 following new subsection:

4 “(p)(1) Effective on the first day of the month in which
 5 an annuitant, including a survivor, becomes 62 years of age,
 6 the annuity computed under the other subsections of this
 7 section and payable to the annuitant shall be reduced (but
 8 not below zero) by the amount determined by multiplying the
 9 amount of the old-age and survivors insurance benefits which
 10 the annuitant is entitled or would, upon proper application,
 11 be entitled to receive under section 202 of the Social
 12 Security Act for the ~~each~~⁹ month, if any, by a fraction--

13 “(A) the numerator of which is the total of the
 14 wages (within the meaning of section 209 of the Social
 15 Security Act) for service which is referred to in
 16 paragraph (2) of this subsection for years before the
 17 calendar year in which such month occurs, and

18 “(B) the denominator of which is the total of all
 19 wages (within the meaning of section 209 of the Social
 20 Security Act) and all self-employment income (within the
 21 meaning of section 211(b) of the Social Security Act)--

22 “(i) of such annuitant, or
 23 “(ii) in the case of a survivor, of the
 24 participant on whose service the annuity is based,
 25 credited for years after 1936 and before the calendar

No. 4

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4

1 year in which such month occurs.

2 `` (2) The service referred to in paragraph (1)(A) of this
 3 subsection is service which is covered by amounts deducted
 4 and withheld as provided in section 211(d), is service
 5 described in subparagraphs (C) through (G) of section ?
 6 21Ø(a)(5) of the Social Security Act, and is taken into
 7 account for the purpose of computing the annuity to which
 8 paragraph (1) of this subsection applies.``.

9 SEC. 4Ø4. PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT
 1Ø SYSTEM.

11 The Central Intelligence Agency Retirement Act of 1964
 12 for Certain Employees (78 Stat. 1Ø43; 5Ø U.S.C. 4Ø3 note) is
 13 amended by adding at the end thereof the following:

14 ``TITLE III--PARTICIPATION IN THE FEDERAL EMPLOYEES'
 15 RETIREMENT SYSTEM

16 ``APPLICATION OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM TO
 17 AGENCY EMPLOYEES

18 ``Sec. 3Ø1. (a) Except as provided in subsection (b), all
 19 officers and employees of the Agency, any of whose service
 2Ø after December 31, 1983, is employment for the purpose of
 21 title II of the Social Security Act and chapter 21 of the
 22 Internal Revenue Code of 1954, shall be subject to chapter 84
 23 of title 5, United States Code.

24 `` (b) ~~Participants~~ Participants in the Central Intelligence Agency
 25 Retirement and Disability System who were participants in

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5

1 such system on or before December 31, 1983, and who have not
 2 had a break in service in excess of 1 year since that date,
 3 are not subject to chapter 84 of title 5, United States Code,
 4 without regard to whether they are subject to title II of the
 5 Social Security Act.

6 . . . (c) The application of the provisions of chapter 84 of
 7 title 5, United States Code, to officers and employees
 8 referred to in subsection (a) shall be subject to the
 9 exceptions and special rules provided in this title. Any
 10 provision of such chapter which is inconsistent with a
 11 special rule provided in this title shall not apply to such
 12 officers and employees.

13 . . . SPECIAL RULES RELATING TO SECTION 203 ^{CRITERIA} EMPLOYEES

14 . . . Sec. 302. (a)(1) Except as otherwise provided in this
 15 section, in the application of chapter 84 of title 5, United
 16 States Code, to an officer or employee of the Agency who is
 17 subject to such chapter and is designated by the Director . . .
 18 under ^{the criteria set forth in} section 203, such officer or employee shall be treated
 19 in the same manner as a law enforcement officer under such
 20 chapter.

21 . . . (b) The provisions of sections 233 and 235 of this Act
 22 shall apply to officers and employees referred to in
 23 subsection (a), except that the retirement benefits shall be
 24 determined under the provisions of chapter 84 of title 5,
 25 United States Code.

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1 (c)(1) Except as provided in paragraph (2), section 271
2 of this Act shall apply to an officer or employee referred to
3 in subsection (a).

4 (2) Contributions during recall service shall be made
5 as provided in section ~~2422~~ ^{211 of title 5} of title 5, United States Code.

Page 85

6 (3) ~~Upon reverting to a retired status, the annuity of~~
7 ~~an officer or employee recalled under this subsection shall~~
8 be redetermined under the provisions of ^{section 221 of this act} ~~chapter 84 of title~~
9 ~~5, United States Code.~~

No. 6

10 SPECIAL RULES FOR OTHER EMPLOYEES FOR SERVICE ABROAD

11 Sec. 303. (a) Notwithstanding any provision of chapter
12 84 of title 5, United States Code, the annuity under
13 subchapter II of such chapter of a retired officer or
14 employee of the Agency who is not designated under section
15 203 of this Act and has served abroad as an officer or
16 employee of the Agency shall be computed as provided in
17 subsection (b).

18 (b)(1) The portion of the annuity relating to the
19 service abroad shall be computed as provided in section
20 8415(d) of title 5, United States Code.

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21 (2) The portions of the annuity relating to other
22 service in the Agency shall be computed as provided in the
23 provision of section 8415 of such title that is applicable to
24 such service under the conditions prescribed in chapter 84 of
25 such title.

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SPECIAL RULES FOR FORMER SPOUSES

1
 2 "Sec. 304. (a) Section 8445^{Page 68} of title 5, United States
 3 Code, and subsections (d) and (e) of section 8435 of such
 4 title shall not apply in the case of an officer or employee
 5 of the Agency who is ~~subject to chapter 84 of title 5, United~~
 6 ~~States Code.~~ Any reference in such chapter to a survivor
 7 annuity for a former spouse, as applied to such officer or
 8 employee, shall be deemed to refer to a survivor annuity for
 9 a former spouse^(as defined in this act) of such officer or employee provided under
 10 subsection (c) of this section.

11 "(b) Section 22^{joint waiver}(b)(1)(C) of this Act shall apply to a
 12 survivor annuity under subsection (c)(2) of this section.

13 "(c) Except as otherwise provided in this section, the
 14 following provisions of title II of this Act shall apply in
 15 the case of an officer or employee of the Agency who is
 16 entitled to receive an annuity under subchapter II, III, or V
 17 of chapter 84 of title 5, United States Code, in the same
 18 manner as such provisions apply in the case of an officer or
 19 employee of the Agency under title II:

- 20 "(1) Section 222(a).^{Pro Rate Primary wife age 60}
- 21 "(2) Subject to a waiver under subsection (b),
 22 subsections (b) and (c) of section 222.^{Survivor Annuity and (d)? - Court order precluded}
- 23 "(3) Subsections (a), (b)(1), and (b)(3) of section
 24 223 and the first sentence of subsection (c) of such
 25 section.

of this section No. 8

102 - Not applicable - option elect 1 year off 15 Nov 82

Why not all parts C
Refer to a page 9 get the amendment

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*Contract not necessary
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*8
Refund
Lump Sum Payment*

1 (4) Subsections (c) and (d) of section 234 (in the
2 case of any lump-sum payment under section 8424(a) of
3 title 5, United States Code, and any payment under
4 subsection (b)(3), (b)(4), (c)(3), (c)(4), or (d) of
5 section 8433 of such title). ??

*look at
carefully*

6 (5) Section 263(b).

7 (d) In the application of section 222(a) under
8 subsection (c)(1)--

9 (1) the reference in paragraph (4)(B) of such
10 section to section 271, 272, or 273 of this Act shall be
11 deemed to refer to any similar provision of law
12 applicable to such officer or employee for purposes of
13 chapter 84 of title 5, United States Code;

?

14 (2) the amount of the reduction in the salary of a
15 recalled or reinstated officer or employee under such
16 paragraph (4)(B) shall be only the amount by which the
17 annuity under subchapter II or V of chapter 84 of title
18 5, United States Code, would have been reduced; and

19 (3) amounts to be deposited in the Treasury of the
20 United States pursuant such paragraph (4)(B) shall be
21 credited to the Civil Service Retirement and Disability
22 Fund.

23 (e) In the application of subsections (b) and (c) of
24 section 222 under subsection (c)(2)

at (d)

No. 9

25 ~~(1) the percentage prescribed in subsections~~

*Should stay in
reference since former
course number process*

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9

~~(b)(1)(A), (b)(1)(B), (b)(4)(A), and (c)(2) of such section shall be deemed to be 50 percent;~~

⁽¹⁾
~~(2)~~ for the purpose of computing the amount of the former spouse's annuity under subsection (b)(1) of such section and the maximum amount of survivor annuities under subsection (b)(4) or (c)(2) of such section, the full amount of the deceased officer's or employee's annuity--

“(A) in the case of an annuity under subchapter II or V of chapter 84 of title 5, United States Code, is the amount of such annuity computed without regard to the reduction for survivor annuities; and

^{Thrift Plan}
“(B) in the case of an annuity under subchapter III of such chapter, is the amount of such annuity computed on an actuarial basis as provided in such subchapter taking into account the application of section 222(b)(1) in the case of such annuity;

⁽²⁾
~~(3)~~ an election under section (b)(5)(B) of such section shall apply with respect to a survivor annuity for a spouse under section 8442 of title 5, United States Code;

⁽³⁾
~~(4)~~ the reference in subsection (c)(2) of such section to a survivor annuity for a spouse shall be deemed to refer--

“(A) in the case of an annuity under subchapter

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1 II or V of chapter 84 of title 5, United States Code,
2 to the survivor annuity provided in section 8442 of
3 title 5, United States Code; and

4 "(B) in the case of an annuity under subchapter
5 III of such chapter, to the survivor annuity
6 described in section 8435(c) of such title; and

7 ~~(1)~~ the fund referred to in subsections (c)(3)(A)
8 and (c)(3)(B) of such section shall be deemed to refer--

9 "(A) in the case of an annuity under subchapter
10 II or V of chapter 84 of title 5, United States Code,
11 to Civil Service Retirement and Disability Fund; and

12 "(B) in the case of an annuity under subchapter
13 III of such chapter, the Thrift Savings Fund
14 established by section 8437 of such title.

15 "(f) A reduction in the annuity of an officer or
16 employee of the Agency to provide a survivor annuity or
17 survivor annuities under this section shall be computed as
18 provided in section 8419(a) of title 5, United States Code.

19 "(g) The entitlement of a former spouse to a portion of
20 an annuity of a retired officer or employee of the Agency
21 under this section shall extend to any annuity supplement
22 that such officer or employee is entitled to receive under
23 section 8421 of title 5, United States Code.

24 "ADMINISTRATIVE PROVISIONS

25 "Sec. 305. (a)(1) Notwithstanding any provision of

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1 chapter 84 of title 5, United States Code, the Director may,
2 to the extent considered appropriate by the Director--

3 "(A) administer the provisions of such chapter with
4 respect to officers and employees of the Central
5 Intelligence Agency; and

6 "(B) perform the functions and duties, ^{including authority and} which would ^{directly}
7 otherwise be performed with respect to such officers and ^{disbursement}
8 employees by the Office of Personnel Management, the ^{from the}
9 Director of such Office, or the Executive Director of the ^{CSRS}
10 Federal Retirement Thrift Investment Management System
11 under such chapter.

12 "(2) ^{Notwithstanding any provision of chapter 84 of title 5, United States Code, the} ~~The~~ Director, in consultation with the Executive
13 Director of the Federal Retirement Thrift Investment
14 Management System, may ^{, to the extent considered appropriate by the Director} --

No. 10

15 "(A) maintain exclusive records relating to
16 elections, contributions, and accounts under the Thrift
17 Savings Plan provided in subchapter III of chapter 84 of
18 title 5, United States Code, in the case of officers and
19 employees of the Agency ~~designated under section 2337-2;~~

No. 11

20 "(B) provide for investments under the Thrift
21 Savings Plan to be made and accounted for by such
22 Executive Director in aggregate amounts for such officers
23 and employees; and

24 "(C) make the necessary allocations of earnings,
25 losses, and charges to individual accounts of such

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officers and employees under the Thrift Savings Plan.

"(b) The Executive Director of the Federal Retirement Thrift Investment Board may not exercise authority under chapter 84 of title 5, United States Code, in the case of officers and employees of the Agency to the extent that the Director exercises authority provided in subsection (a).

"(c) The Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Management System shall furnish such information and services to the Director of Central Intelligence as the Director of Central Intelligence determines necessary to carry out this section.

"(d)(1) In the administration of chapter 84 of title 5, United States Code under this section, section 201(e) of this Act shall apply.
~~"(d) In the administration of chapter 84 of title 5, United States Code, under this section.~~

"(2) Notwithstanding paragraph (1), section 8461(e) of title 5, United States Code, shall apply with respect to officers and employees of the Central Intelligence Agency who are neither participants in the Central Intelligence Agency Retirement and Disability System nor section 203 criteria employees designated under section 302(a)(1) of this Act."
~~"(1) section 201(e) of this Act shall apply only to officers and employees of the Agency designated under section 203 of this Act, and~~

No. 12

"REGULATIONS

"Sec. 306. (a) The Director, in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Management System, shall prescribe in regulations appropriate procedures to carry out this title.

(including pursuant to ^{OPM. right to} input as and the rules

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1 “(B) perform the functions and duties which would
 2 otherwise be performed with respect to such officers and
 3 employees by the Office of Personnel Management or the
 4 Director of such Office under this subchapter.
 5 “(2) The Director of the Office of Personnel Management
 6 may not exercise authority under this subchapter in the case
 7 of officers and employees of the Central Intelligence Agency,
 8 to the extent that the Director of Central Intelligence
 9 exercises authority provided in paragraph (1) of this
 10 subsection.

11 “(3) The Director of the Office of Personnel Management
 12 shall furnish such information and services to the Director
 13 of Central Intelligence as the Director of Central
 14 Intelligence determines necessary to carry out paragraph (1)
 15 of this subsection.

16 “(4)(A) The Director of Central Intelligence, in
 17 consultation with the Director of the Office of Personnel
 18 Management, shall prescribe in regulations appropriate
 19 procedures to carry out this subsection.

20 “(B) The regulations prescribed under subparagraph (A)
 21 of this paragraph ^{shall be submitted} ~~shall become effective [] days after/on~~
 22 ~~the date on which/?) the Director of Central Intelligence~~
 23 ~~submits such regulations~~ to the Select Committee on
 24 Intelligence of the Senate and the Permanent Select Committee
 25 on Intelligence of the House of Representatives. ^{before they take effect.}

No. 15

“(5)(A) In the administration of this Chapter under this subsection,
 section 201(c) of the Central Intelligence Agency Retirement Act of 1964 for certain
 employees shall apply.
 (B) Notwithstanding subparagraph (A), section 8347(d) of this title shall apply
 with respect to officers and employees of the Central Intelligence Agency who are participants
 in the Civil Service.

No. 16

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15

1 ~~SEC. 406. REPORT ON EXPANSION OF COVERAGE OF THE CENTRAL~~
 2 ~~INTELLIGENCE AGENCY RETIREMENT AND DISABILITY~~
 3 ~~SYSTEM.~~

4 ~~(a) Determination.--The Director of Central Intelligence~~
 5 ~~shall determine whether it would be appropriate to expand the~~
 6 ~~coverage of the Central Intelligence Agency Retirement and~~
 7 ~~Disability System to include any officers and employees of~~
 8 ~~the Central Intelligence Agency who are subject to the Civil~~
 9 ~~Service Retirement and Disability System under subchapter III~~
 10 ~~of chapter 83 of title 5, United States Code.~~

11 ~~(b) Report.--Not later than 1 year after the date of the~~
 12 ~~enactment of this Act, the Director of Central Intelligence~~
 13 ~~shall transmit to the Congress the Director's determinations~~
 14 ~~under subsection (a) and any recommendations for legislation~~
 15 ~~which the Director considers appropriate and relate to such~~
 16 ~~determinations.~~

17 SEC. ⁴⁰⁶~~407~~. SPECIAL RETIREMENT ACCRUAL FOR OTHER INTELLIGENCE.
 18 PERSONNEL.

19 (a) National Security Agency Personnel.--Section
 20 9(b)(1)(B) of the National Security Agency Act of 1959 (50
 21 U.S.C. 402 note) is amended by inserting before the semicolon
 22 the following: "(including special retirement accrual as
 23 provided in section 303 of the Central Intelligence Agency...
 24 Retirement Act of 1964 for Certain Employees (50 U.S.C. 423
 25 note))".

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1 (b) Defense Intelligence Agency Personnel.--Section
2 16Ø5(a) of title 1Ø, United States Code, is amended by adding
3 at the end thereof the following: "The Secretary may also
4 provide to any such civilian personnel who are subject to
5 chapter 84 of title 5, special retirement accrual benefits in
6 the same manner provided for certain officers and employees
7 of the Central Intelligence Agency in section 3Ø3 of the
8 Central Intelligence Agency Retirement Act of 1964 for
9 Certain Employees (5Ø U.S.C. 4Ø3 note).".

*Copy to
OGE 4/29
D. Kamb 4/28*

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INITIAL DISCUSSION DRAFT
APRIL 25, 1986

1 TITLE IV--CENTRAL INTELLIGENCE AGENCY RETIREMENT

2 SEC. 401. REFERENCES.

3 The Central Intelligence Agency Retirement Act of 1964
4 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is
5 amended--

6 (1) in section 201(c), by inserting "(except section
7 *will apply only to new CIADS*
305(d) of this Act)" after "or any other provisions of
8 law";

9 (2) by striking out "this Act" each place it
10 appears in title II except in sections 201 and 264, and
11 inserting in lieu thereof "this title"; and

12 (3) by inserting "under this title" after "payable
13 from the Fund" each place it appears in title II.

14 SEC. 402. CONTRIBUTIONS TO THE CENTRAL INTELLIGENCE AGENCY
15 RETIREMENT AND DISABILITY SYSTEM.

16 Section 211 of the Central Intelligence Agency Retirement
17 Act of 1964 for Certain Employees (78 Stat. 1045; 50 U.S.C.
18 403 note) is amended--

19 (1) by inserting "Except as provided in subsection
20 (d)," before "Seven percentum" in the first sentence
21 of subsection (a); and

22 (2) by adding at the end thereof the following new
23 subsection (d):

24 "(d)(1) In the case of a participant who was a

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1 participant subject to this title before January 1, 1984, and
2 whose service--

3 "(A) is employment for the purposes of title II of
4 the Social Security Act and chapter 21 of the Internal
5 Revenue Code of 1954, and

6 "(B) is not creditable service for any purpose under
7 title III of this Act or chapter 84 of title 5, United
8 States Code,

9 there shall be deducted and withheld from the basic pay of
10 the participant under this subsection during any pay period
11 only the amount computed pursuant to paragraph (2).

12 "(2) The amount deducted and withheld from the basic pay
13 of a participant during any pay period pursuant to paragraph
14 (1) shall be the excess of--

15 "(A) the amount determined by multiplying the
16 percent applicable to the participant under subsection
17 (a) by the basic pay payable to the participant for such
18 pay period, over

19 "(B) the amount of the taxes deducted and withheld
20 from such basic pay under section 3101(a) of the Internal
21 Revenue Code of 1954 (relating to old-age, survivors, and
22 disability insurance) for such pay period."

23 SEC. 403. OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY
24 BENEFITS.

25 Section 221 of the Central Intelligence Agency Retirement

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1 Act of 1964 for Certain Employees (78 Stat. 1045; 50 U.S.C.
2 403 note) is amended by adding at the end thereof the
3 following new subsection:

4 “(p)(1) Effective on the first day of the month in which
5 an annuitant, including a survivor, becomes 62 years of age,
6 the annuity computed under the other subsections of this
7 section and payable to the annuitant shall be reduced (but
8 not below zero) by the amount determined by multiplying the
9 amount of the old-age and survivors insurance benefits which
10 the annuitant is entitled or would, upon proper application,
11 be entitled to receive under section 202 of the Social
12 Security Act for the such month, if any, by a fraction--

13 “(A) the numerator of which is the total of the
14 wages (within the meaning of section 209 of the Social
15 Security Act) for service which is referred to in
16 paragraph (2) of this subsection for years before the
17 calendar year in which such month occurs, and

18 “(B) the denominator of which is the total of all
19 wages (within the meaning of section 209 of the Social
20 Security Act) and all self-employment income (within the
21 meaning of section 211(b) of the Social Security Act)--

22 “(i) of such annuitant, or

23 “(ii) in the case of a survivor, of the
24 participant on whose service the annuity is based,
25 credited for years after 1936 and before the calendar

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1 year in which such month occurs.

2 `` (2) The service referred to in paragraph (1)(A) of this
3 subsection is service which is covered by amounts deducted
4 and withheld as provided in section 211(d), is service
5 described in subparagraphs (C) through (G) of section
6 210(a)(5) of the Social Security Act, and is taken into
7 account for the purpose of computing the annuity to which
8 paragraph (1) of this subsection applies.``.

9 SEC. 404. PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT
10 SYSTEM.

11 The Central Intelligence Agency Retirement Act of 1964
12 for Certain Employees (78 Stat. 1043; 50 U.S.C. 403 note) is
13 amended by adding at the end thereof the following:

14 ``TITLE III--PARTICIPATION IN THE FEDERAL EMPLOYEES'
15 RETIREMENT SYSTEM

16 ``APPLICATION OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM TO
17 AGENCY EMPLOYEES

18 ``Sec. 301. (a) Except as provided in subsection (b), all
19 officers and employees of the Agency, any of whose service
20 after December 31, 1983, is employment for the purpose of
21 title II of the Social Security Act and chapter 21 of the
22 Internal Revenue Code of 1954, shall be subject to chapter 84
23 of title 5, United States Code.

24 `` (b) Participants in the Central Intelligence Agency
25 Retirement and Disability System who were participants in

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1 such system on or before December 31, 1983, and who have not
2 had a break in service in excess of 1 year since that date,
3 are not subject to chapter 84 of title 5, United States Code,
4 without regard to whether they are subject to title II of the
5 Social Security Act.

6 `` (c) The application of the provisions of chapter 84 of
7 title 5, United States Code, to officers and employees
8 referred to in subsection (a) shall be subject to the
9 exceptions and special rules provided in this title. Any
10 provision of such chapter which is inconsistent with a
11 special rule provided in this title shall not apply to such
12 officers and employees.

13 ``SPECIAL RULES RELATING TO SECTION 203 EMPLOYEES

14 ``Sec. 302. (a)(1) Except as otherwise provided in this
15 section, in the application of chapter 84 of title 5, United
16 States Code, to an officer or employee of the Agency who is
17 subject to such chapter and is designated by the Director
18 under section 203, such officer or employee shall be treated
19 in the same manner as a law enforcement officer under such
20 chapter.

21 `` (b) The provisions of sections 233 and 235 of this Act
22 shall apply to officers and employees referred to in
23 subsection (a), except that the retirement benefits shall be
24 determined under the provisions of chapter 84 of title 5,
25 United States Code.

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1 “(c)(1) Except as provided in paragraph (2), section 271-*Recall*
 2 of this Act shall apply to an officer or employee referred to
 3 in subsection (a).

4 “(2) Contributions during recall service shall be made
 5 as provided in section 8422 of title 5, United States Code.

6 “(3) Upon reverting to a retired status, the annuity of
 7 an officer or employee recalled under this subsection shall
 8 be redetermined under the provisions of chapter 84 of title
 9 5, United States Code.

10 “SPECIAL RULES FOR OTHER EMPLOYEES FOR SERVICE ABROAD

11 “Sec. 303. (a) Notwithstanding any provision of chapter
 12 84 of title 5, United States Code, the annuity under
 13 subchapter II of such chapter of a retired officer or
 14 employee of the Agency who is not designated under section
 15 203 of this Act and has served abroad as an officer or
 16 employee of the Agency shall be computed as provided in
 17 subsection (b).

18 “(b)(1) The portion of the annuity relating to the
 19 service abroad shall be computed as provided in section
 20 8415(d) *Low Performance* of title 5, United States Code.

21 “(2) The portions of the annuity relating to other
 22 service in the Agency shall be computed as provided in the
 23 provision of section 8415 of such title that is applicable to
 24 such service under the conditions prescribed in chapter 84 of
 25 such title.

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1 ``SPECIAL RULES FOR FORMER SPOUSES

2 ``Sec. 304. (a) Section 8445 of title 5, United States
3 Code, and subsections (d) and (e) of section 8435 of such
4 title shall not apply in the case of an officer or employee
5 of the Agency who is subject to chapter 84 of title 5, United
6 States Code. Any reference in such chapter to a survivor
7 annuity for a former spouse, as applied to such officer or
8 employee, shall be deemed to refer to a survivor annuity for
9 a former spouse of such officer or employee provided under
10 subsection (c) of this section.

11 `` (b) Section 221(b)(1)(C) of this Act shall apply to a
12 survivor annuity under subsection (c)(2) of this section.

13 `` (c) Except as otherwise provided in this section, the
14 following provisions of title II of this Act shall apply in
15 the case of an officer or employee of the Agency who is
16 entitled to receive an annuity under subchapter II, III, or V
17 of chapter 84 of title 5, United States Code, in the same
18 manner as such provisions apply in the case of an officer or
19 employee of the Agency under title II:

20 `` (1) Section 222(a).

21 `` (2) Subject to a waiver under subsection (b),
22 subsections (b) and (c) of section 222.

23 `` (3) Subsections (a), (b)(1), and (b)(3) of section
24 223 and the first sentence of subsection (c) of such
25 section.

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1 “(4) Subsections (c) and (d) of section 234 (in the
2 case of any lump-sum payment under section 8424(a) of
3 title 5, United States Code, and any payment under
4 subsection (b)(3), (b)(4), (c)(3), (c)(4), or (d) of
5 section 8433 of such title).

6 “(5) Section 263(b).

7 “(d) In the application of section 222(a) under
8 subsection (c)(1)--

9 “(1) the reference in paragraph (4)(B) of such
10 section to section 271, 272, or 273 of this Act shall be
11 deemed to refer to any similar provision of law
12 applicable to such officer or employee for purposes of
13 chapter 84 of title 5, United States Code;

14 “(2) the amount of the reduction in the salary of a
15 recalled or reinstated officer or employee under such
16 paragraph (4)(B) shall be only the amount by which the
17 annuity under subchapter II or V of chapter 84 of title
18 5, United States Code, would have been reduced; and

19 “(3) amounts to be deposited in the Treasury of the
20 United States pursuant such paragraph (4)(B) shall be
21 credited to the Civil Service Retirement and Disability
22 Fund.

23 “(e) In the application of subsections (b) and (c) of
24 section 222 under subsection (c)(2)--

25 “(1) the percentage prescribed in subsections

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1 (b)(1)(A), (b)(1)(B), (b)(4)(A), and (c)(2) of such
2 section shall be deemed to be 50 percent;

3 `` (2) for the purpose of computing the amount of the
4 former spouse's annuity under subsection (b)(1) of such
5 section and the maximum amount of survivor annuities
6 under subsection (b)(4) or (c)(2) of such section, the
7 full amount of the deceased officer's or employee's
8 annuity--

9 `` (A) in the case of an annuity under subchapter
10 II or V of chapter 84 of title 5, United States Code,
11 is the amount of such annuity computed without regard
12 to the reduction for survivor annuities; and

13 `` (B) in the case of an annuity under subchapter
14 III of such chapter, is the amount of such annuity
15 computed on an actuarial basis as provided in such
16 subchapter taking into account the application of
17 section 222(b)(1) in the case of such annuity;

18 `` (3) an election under section (b)(5)(B) of such
19 section shall apply with respect to a survivor annuity
20 for a spouse under section 8442 of title 5, United States
21 Code;

22 `` (4) the reference in subsection (c)(2) of such
23 section to a survivor annuity for a spouse shall be
24 deemed to refer--

25 `` (A) in the case of an annuity under subchapter

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1 II or V of chapter 84 of title 5, United States Code,
2 to the survivor annuity provided in section 8442 of
3 title 5, United States Code; and

4 `` (B) in the case of an annuity under subchapter
5 III of such chapter, to the survivor annuity
6 described in section 8435(c) of such title; and

7 `` (5) the fund referred to in subsections (c)(3)(A)
8 and (c)(3)(B) of such section shall be deemed to refer--

9 `` (A) in the case of an annuity under subchapter
10 II or V of chapter 84 of title 5, United States Code,
11 to Civil Service Retirement and Disability Fund; and

12 `` (B) in the case of an annuity under subchapter
13 III of such chapter, the Thrift Savings Fund
14 established by section 8437 of such title.

15 `` (f) A reduction in the annuity of an officer or
16 employee of the Agency to provide a survivor annuity or
17 survivor annuities under this section shall be computed as
18 provided in section 8419(a) of title 5, United States Code.

19 `` (g) The entitlement of a former spouse to a portion of
20 an annuity of a retired officer or employee of the Agency
21 under this section shall extend to any annuity supplement
22 that such officer or employee is entitled to receive under
23 section 8421 of title 5, United States Code.

24 `` ADMINISTRATIVE PROVISIONS

25 `` Sec. 3Ø5. (a)(1) Notwithstanding any provision of

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1 chapter 84 of title 5, United States Code, the Director may,
2 to the extent considered appropriate by the Director--

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3 "(A) administer the provisions of such chapter with
4 respect to officers and employees of the Central
5 Intelligence Agency; and

6 "(B) perform the functions and duties which would
7 otherwise be performed with respect to such officers and
8 employees by the Office of Personnel Management, the
9 Director of such Office, or the Executive Director of the
10 Federal Retirement Thrift Investment Management System
11 under such chapter.

12 "(2) The Director, in consultation with the Executive
13 Director of the Federal Retirement Thrift Investment
14 Management System, may--

15 "(A) maintain exclusive records relating to
16 elections, contributions, and accounts under the Thrift
17 Savings Plan provided in subchapter III of chapter 84 of
18 title 5, United States Code, in the case of officers and
19 employees of the Agency [designated under section 203/?];

20 "(B) provide for investments under the Thrift
21 Savings Plan to be made and accounted for by such
22 Executive Director in aggregate amounts for such officers
23 and employees; and

24 "(C) make the necessary allocations of earnings,
25 losses, and charges to individual accounts of such

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1 officers and employees under the Thrift Savings Plan.

2 "(b) The Executive Director of the Federal Retirement
3 Thrift Investment Board may not exercise authority under
4 chapter 84 of title 5, United States Code, in the case of
5 officers and employees of the Agency to the extent that the
6 Director exercises authority provided in subsection (a).

7 "(c) The Director of the Office of Personnel Management
8 and the Executive Director of the Federal Retirement Thrift
9 Investment Management System shall furnish such information
10 and services to the Director of Central Intelligence as the
11 Director of Central Intelligence determines necessary to
12 carry out this section.

13 "(d) In the administration of chapter 84 of title 5,
14 United States Code, under this section--

15 "(1) section 201(c) ^{Dis determination final and conclusive and not subject to review} of this Act shall apply only to
16 officers and employees of the Agency designated under
17 section 203 ^{as a 203 participant} of this Act; and

18 "(2) section 8461(e) ^{Merit Systems Protection Board} of title 5, United States Code,
19 shall not apply to such officers and employees.

20 "REGULATIONS

21 "Sec. 306. (a) The Director, in consultation with the
22 Director of the Office of Personnel Management and the
23 Executive Director of the Federal Retirement Thrift
24 Investment Management System, shall prescribe in regulations
25 appropriate procedures to carry out this title.

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1 “(b) The regulations prescribed under subsection (a)
 2 shall become effective [__ days after/on the date on which/?]
 3 the Director submits such regulations to the Select Committee
 4 on Intelligence of the Senate and the Permanent Select
 5 Committee on Intelligence of the House of Representatives.

6 “TRANSITION PROVISIONS

7 “Sec. 307. The Director shall issue regulations
 8 providing for the transition from the Central Intelligence
 9 Agency Retirement and Disability System to the Federal
 10 Employees' Retirement System provided in chapter 84 of title
 11 5, United States Code, in the same manner as provided in
 12 title III of the Federal Employees' Retirement System Act of
 13 1986.”.

*election
of transfer*

14 SEC. 405. ADMINISTRATION OF THE CIVIL SERVICE RETIREMENT AND
 15 DISABILITY SYSTEM FOR EMPLOYEES OF THE CENTRAL
 16 INTELLIGENCE AGENCY.

17 Section 8347 of title 5, United States Code, is amended
 18 by adding at the end thereof the following new subsection
 19 (n):

20 “(n)(1) Notwithstanding any other provision of this
 21 subchapter, the Director of Central Intelligence may, to the
 22 extent considered appropriate by such Director--

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23 “(A) administer the provisions of this subchapter
 24 with respect to officers and employees of the Central
 25 Intelligence Agency; and

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1 “(B) perform the functions and duties which would
2 otherwise be performed with respect to such officers and
3 employees by the Office of Personnel Management or the
4 Director of such Office under this subchapter.

5 “(2) The Director of the Office of Personnel Management.
6 may not exercise authority under this subchapter in the case
7 of officers and employees of the Central Intelligence Agency,
8 to the extent that the Director of Central Intelligence
9 exercises authority provided in paragraph (1) of this
10 subsection.

11 “(3) The Director of the Office of Personnel Management
12 shall furnish such information and services to the Director
13 of Central Intelligence as the Director of Central
14 Intelligence determines necessary to carry out paragraph (1)
15 of this subsection.

16 “(4)(A) The Director of Central Intelligence, in
17 consultation with the Director of the Office of Personnel
18 Management, shall prescribe in regulations appropriate
19 procedures to carry out this subsection.

20 “(B) The regulations prescribed under subparagraph (A)
21 of this paragraph shall become effective [__ days after/on
22 the date on which/?] the Director of Central Intelligence
23 submits such regulations to the Select Committee on
24 Intelligence of the Senate and the Permanent Select Committee
25 on Intelligence of the House of Representatives.”.

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1 SEC. 406. REPORT ON EXPANSION OF COVERAGE OF THE CENTRAL
2 INTELLIGENCE AGENCY RETIREMENT AND DISABILITY
3 SYSTEM.

4 (a) Determination.--The Director of Central Intelligence
5 shall determine whether it would be appropriate to expand the
6 coverage of the Central Intelligence Agency Retirement and
7 Disability System to include any officers and employees of
8 the Central Intelligence Agency who are subject to the Civil
9 Service Retirement and Disability System under subchapter III
10 of chapter 83 of title 5, United States Code.

11 (b) Report.--Not later than 1 year after the date of the
12 enactment of this Act, the Director of Central Intelligence
13 shall transmit to the Congress the Director's determinations
14 under subsection (a) and any recommendations for legislation
15 which the Director considers appropriate and relate to such
16 determinations.

17 SEC. 407. SPECIAL RETIREMENT ACCRUAL FOR OTHER INTELLIGENCE
18 PERSONNEL.

19 (a) National Security Agency Personnel.--Section
20 9(b)(1)(B) of the National Security Agency Act of 1959 (50
21 U.S.C. 402 note) is amended by inserting before the semicolon
22 the following: ``(including special retirement accrual as
23 provided in section 303 of the Central Intelligence Agency
24 Retirement Act of 1964 for Certain Employees (50 U.S.C. 403
25 note))''.

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1 (b) Defense Intelligence Agency Personnel.--Section
2 1605(a) of title 10, United States Code, is amended by adding
3 at the end thereof the following: "The Secretary may also
4 provide to any such civilian personnel who are subject to
5 chapter 84 of title 5, special retirement accrual benefits in
6 the same manner provided for certain officers and employees
7 of the Central Intelligence Agency in section 303 of the
8 Central Intelligence Agency Retirement Act of 1964 for
9 certain Employees (50 U.S.C. 403 note).".